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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,788	02/11/2004	Gero Dittman	CH920020039US1	3251
48233 7590 12/09/2008 SCULLY, SCOTT, MURPHY & PRESSER, P.C. 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530				
EXAMINER				
ENG, DAVID Y				
ART UNIT		PAPER NUMBER		
2455				
MAIL DATE		DELIVERY MODE		
12/09/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/776,788

Applicant(s)

DITTMAN, GERO

Examiner

DAVID Y. ENG

Art Unit

2455

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5 and 16-19 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1,3-5 and 16-19 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Claims 2 and 6-15 have been cancelled. The active claims are 1, 3-5 and 16-19 of which claims 1, 16 and 18-19 are independent claims.

Abstract

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided.

Drawing

In Figure 1, "real section" should be "read section".

Claim Rejections - 35 USC § 112, 2nd paragraph

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 3-5, 16-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Structural interconnection between the processor, the interface, the network, the scheduler, the internal memory and the memory manager as recited in claim 1 is not clear (see Applicants' Figure 1).

The flow-path of data packets between the recited components is not clear. It is not clear into which memory the data packets just arrived from the network are stored. It is not clear from which memory the memory controller retrieves the data packets and provides them to the scheduler for priority assignment. It is not clear into which memory the data packets are stored after being prioritized by the scheduler. It is not clear from which memory the prioritized data packets are retrieved and provided to the processor for processing in according to priority. Applicants are cautioned not to introduce new matter in their response.

Claim 1 fails to positively recite the external memory. Function of the external memory is vague and indefinite.

With respect to claims 16 and 18-19, it appears that the internal memory would not store any packets which have low priority and are required to be stored back to the external memory. Note that packets received from the network are stored in the external memory first. Priority is then assigned to the packets in the external memory. Packets of higher priority are then retrieved from the main memory to the external memory. The packets in the internal therefore are already of higher priority.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-5 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyle (USP 5,963,975) in view of Richter.

See at least Figures 4 and 5 and the corresponding description in Boyle. Boyle teaches:

Claims 1, 3-4, 16-19

A data packet processing device (Figure 4 and 5) for processing data packets received from a network (120), including:

a processor (96) for processing data packets (see packets in claim 6);

an interface operable (inherent because without it, the memory does not work) for transmitting data packets to and from an external memory (memory 116) ;

a scheduler for assigning priority information which determines an order of the data packets to be processed to each received data packet in the external memory, and storing links to the data packets in a pointer memory for processing in said priority order;

an internal memory (cache 108) for storing data packets;

a memory manager (inherent, the circuit in Boyle which controls the transferring of data between the components shown in Figure 5 of Boyle because without it, the system does not work) coupled to the external memory and the internal memory operable to transfer the data packet having the highest priority stored in the external memory to the internal memory to be processed as one of the next;

wherein the memory manger is operable to transfer a data packet from the internal memory to the external memory.

Boyle does not have a scheduler for assigning priority. However, Richter teaches a scheduler in Figures 7A and 7B for assigning priority to incoming packets for processing. From the teaching of Richter, it would have been obvious to a person of ordinary skill in the art to incorporate a scheduler in Boyle such that packets are able to be processed according to priority if incoming packets are of different priority.

Claims 5

The "wherein clause" merely consists of non-functional descriptive material.

Conclusion

Applicant's arguments with respect to claims 1, 3-5 and 16-19 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID Y. ENG whose telephone number is 571-272-3984. The examiner can normally be reached on M-F from 8AM to 3PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, SALEH NAJJAR, can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/DAVID Y. ENG/
Primary Examiner, Art Unit 2455